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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,784	08/24/2001	Brian D. Ryder	COMP:0235	2946

7590 02/08/2005

INTELLECTUAL PROPERTY ADMINISTRATION
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EXAMINER

CHUNG, DANIEL J

ART UNIT	PAPER NUMBER
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2672

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/938,784

Applicant(s)

RYDER, BRIAN D.

Examiner

Daniel J Chung

Art Unit

2672

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 January 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-26 and 33-37.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments filed 1-24-2005 are not persuasive. Specifically, applicant argued that the cited reference does not disclose a device or component having both zoom functionality and hot-key functionality. However, it is noted that the features upon which applicant relies (i.e., both zoom functionality and hot-key functionality) are not recited in the rejected claim(s). See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In fact, the recited claim merely states "...the fingerprint scanner to perform a function (emphasis added), ...at least one of a zoom function and a hot-key function", where "a function" refer to either a zoom function or a hot-key function. Further, in response to the applicant's argument regarding to 69 U.S.P.Q.2d 1865, 1876, (i.e. the list is conjunctive because the term "a desired" is repeated for each category and the final category in the criteria list is introduced by "and a desired"), Examiner asserts that such interpretation is not applicable into presented application, because such term [e.g. "desired"], does not exist in this presented application. Furthermore, in this case, there is no way that "at least one of" refers only to one category of the criteria would contradict the purpose of the invention as described in the written description. Even if, the recited claim indicates the meaning of a zoom function and a hot-key function together within a function, there is no indication in the written description of presented application that fingerprint scanner performs both zoom function and hot-key function at same time. In fact, Examiner asserts that it is impossible to operate two different functions [i.e. zoom, hot-key] simultaneously with a single device by performing a single function, as claimed. Dependent claims are also rejected by dependency.



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